

**NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
 : PENNSYLVANIA  
 v. :  
 :  
 SCOTT LEWIS HOY, : No. 2131 MDA 2012  
 :  
 :  
 Appellant :  
 :

Appeal from the PCRA Order, November 28, 2012,  
in the Court of Common Pleas of Centre County  
Criminal Division at No. CP-14-CR-0001733-2005

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
 : PENNSYLVANIA  
 v. :  
 :  
 SCOTT LEWIS HOY, : No. 2132 MDA 2012  
 :  
 :  
 Appellant :  
 :

Appeal from the Order, November 9, 2012,  
in the Court of Common Pleas of Centre County  
Criminal Division at No. CP-14-CR-0001731-2005

BEFORE: FORD ELLIOTT, P.J.E., PANELLA AND FITZGERALD,\* JJ.

CONCURRING STATEMENT BY FITZGERALD, J.:

**FILED SEPTEMBER 09, 2013**

Pursuant to the 5-4 *en banc* decision of ***Commonwealth v. Masker***,  
34 A.3d 841 (Pa. Super. 2011) (*en banc*), *appeal denied*, 47 A.3d 846 (Pa.  
2012), I am constrained to agree that Appellant’s ineffectiveness claims are  
not cognizable under the PCRA. Nevertheless, I write separately to observe

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that under ***Masker***, an SVP-classified defendant is generally precluded from relief on any ineffectiveness claim related to SVP classification procedures, and is therefore left without a remedy.